

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 N. 5th STREET
KANSAS CITY, KANSAS 66101

03 APR 17 PM 1:45
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)
)
NEW CENTURY FARM) DOCKET No. FIFRA-07-2003-0022
SERVICE, INC.) DOCKET No. FIFRA-07-2003-0044
)
RESPONDENT)
)

PRELIMINARY STATEMENT

These proceedings for the assessment of civil penalties were initiated on or about November 26, 2002, and December 20, 2002, pursuant to §14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. §1361, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued "Complaints and Notices of Opportunity for Hearing" to New Century Farm Service, Inc. (hereinafter referred to as "Respondent" or "New Century").

The Complaints charged Respondent with violating § 12(a)(2)(F) of FIFRA, 7 U.S.C. § 136j(a)(2)(F). Respondent was charged with one count in the first Complaint and five counts in the second Complaint.

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaints. It is agreed by Complainant and Respondent that the Complaints will be addressed in a single document. Respondent agrees to have its written record reflect the proper purchaser(s) if Respondent utilizes "split billing" [split billing is a situation where one person pays the Respondent for the total purchase but it is understood by the Respondent and so noted, that the material purchased will be divided among the person who took delivery, with other person(s) who are legally qualified to make purchase(s), and the person who took delivery of the material will be paid by others for their portion of the material. Actually, each of the recipients of the material is a purchaser and the person who took delivery of the material is doing so strictly for the convenience of the others]. The Consent Agreement and Final Order set forth herein below is the result of these negotiations and represents settlement of the Complaints.

CONSENT AGREEMENT

It is hereby agreed, and accepted by Respondent that:

1. This Consent Agreement and Final Order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of the allegations in the Complaints. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaints, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaints and admit the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violations of FIFRA as set forth in the Complaints.

4. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C §136 et.seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

7. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

8. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

FINAL ORDER

Pursuant to Section 14 of FIFRA, as amended, 7 U.S.C. Section 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent in settlement of the allegations set forth in the Complaints, shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Seventeen Thousand Six Hundred Dollars (\$17,600.00), payable to the "Treasurer, United States of America" and such check shall be mailed to: U.S. EPA-Region VII (Regional Hearing Clerk), C/O Mellon Bank, P.O. Box 360748M, Pittsburgh, Pennsylvania 15251. The payment shall be identified as In the Matter of New Century Farm Service, Inc. A copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5th Street, Kansas City, Kansas 66101.

2. The payment of \$17,600.00 shall be paid on or before 30 days after the effective date of the Final Order (the date by which the payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

By: _____

Rupert G. Thomas

Attorney

Office of Regional Counsel

Date: _____

April 15, 2003

RESPONDENT:

NEW CENTURY FARM SERVICE, INC.

By: _____

Donald J. Stralman

Title: _____

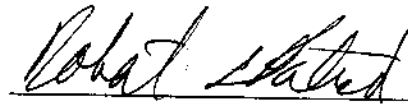
Credit Manager

Date: _____

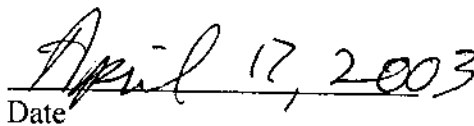
4/8/03

IN THE MATTER OF New Century Farm Service, Inc.
Docket No. FIFRA-07-2003-0022
Docket No. FIFRA-07-2003-0044

IT IS SO ORDERED. This Order becomes effective immediately.

A handwritten signature in cursive script, appearing to read "Robert L. Patrick", written over a horizontal line.

Robert L. Patrick
Regional Judicial Officer
Region VII

A handwritten date "April 17, 2003" written in cursive script, positioned above the word "Date" which is written below a horizontal line.

IN THE MATTER OF the New Century Farm Service, Inc.
Docket No. TSCA-07-2003-0022, and
Docket No. TSCA-07-2003-0044

CERTIFICATE OF SERVICE

I certify that the foregoing Preliminary Statement was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Rupert G. Thomas
Attorney
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by First Class Mail Return Receipt:

Stephen M. Morain
Registered Agent for New Century Farm Service, Inc.
5400 University Avenue
West Des Moines, Iowa 50266

Dated: April 17, 2003

Abbey White for
Kathy Robinson
Regional Hearing Clerk

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	
Stephen M. Morain, Reg Agent for New Century Farm Service, Inc. FIFRA-07-2003-0022, FIFRA-07-2003-0044 5400 University Avenue West Des Moines, Iowa 50266	

PS Form 3800, April 2002